SUPREME COURT OF THE UNITED STATES.

No. 316.

THE UNITED STATES, APPELLANTS,

vs.

THE STEAMER J. M. SHARP, HER TACKLE, APPAREL, &c.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF LOUISIANA.

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1 *Libel of information.—Filed Jan'y 30, 1866.*

To the honorable the judges of the circuit court court of the United States for the sixth judicial circuit and eastern district of Louisiana.

The libel of information of John K. Goodloe, attorney of the United States for the eastern district of Louisiana, who prosecutes for the said United States in this behalf, and being here present in court, in his own proper person, in the name and behalf of the said United States of America, and Charles Black, sr., informant, against the steamer J. M. Sharp, her tackle, apparel, furniture, machinery, &c., hereinafter described, and against all persons intervening for their interest therein, in a case of seizure and forfeiture, alleges, propounds, and declares as follows:

I. That Cuthbert Bullitt, esq., marshal of the United States for the said district, under written authority given him by the said attorney, in compliance with instructions issued by the Attorney General of the United States to the district attorneys thereof, and by virtue of the act of Congress, approved on the sixth day of August, in the year of our Lord one thousand eight hundred and sixty-one, entitled "An act to confiscate property used for insurrectionary purposes," heretofore, that is to say, on the 29th day of January, in the year one thousand eight hundred and sixty-six, seized as forfeited to the United States, at New Orleans, within said district, and within the jurisdiction of this court, the steamer J. M. Sharp, her tackle, apparel, furniture, and machinery, &c.

2 II. That by the act of the Congress of the United States, approved August 6, 1861. entitled "An act to confiscate property used for insurrectionary purposes," it was provided "that if, during the present or any future insurrection against the government of the United States, after the President of the United States shall have declared, by proclamation, that the laws of the United States are opposed, and the execution thereof obstructed by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the power vested in the marshals by law, any person or persons, his, her, or their agent, attorney, or employee, shall purchase or acquire, sell or give, any property of whatever kind or description, with intent to employ the same, or suffer the same to be used or employed in aiding, abetting, or promoting such rebellion or resistance to the laws, or any person or persons engaged therein; or if any person or persons, being the owner or owners of any such property, shall knowingly use or employ, or consent to the use or employment of the same as aforesaid, all such property is hereby declared to be lawful subject of prize and capture wherever found; and it shall be the duty of the President of the United States to cause the same to be seized, confiscated, and condemned."

III. That the President of the United States did, on the 15th of April, 1861, declare by proclamation "that the laws of the United States are opposed and the execution thereof obstructed by combinations too powerful to be suppressed by the ordinary course of judi-

cial proceedings, or by the power vested in the marshals by law;" and that on the 16th of August, 1861, he did reiterate said proclamation, and did declare that "such insurrection" still existed and had not been suppressed.

IV. 1. That the property herein above described was used and employed knowingly by the owner or owners thereof, in aiding, abetting, and promoting the said insurrection and resistance to the laws, within the meaning of the said act of Congress, after the approval of the said act, and after the public proclamations of the President above mentioned, and after the 16th day of August, 1861, by being used in transporting troops of the Confederate States, in armed rebellion against the government of the United States, and in transporting munitions of war, supplies, &c., for the said troops.

2. That the property herein described was used and employed, knowingly by the owner or owners thereof, in aiding and abetting persons engaged in the said insurrection and resistance to the laws, within the meaning of the said act of Congress, after the approval of said act, and after the public proclamations of the President above mentioned, and after the 16th day of August, 1861, by being used in the transportation of troops in the service of the so-called Confederate States in armed rebellion against the government of the United States, and in transporting munitions of war and supplies for the use of the said troops.

3. That the said property was purchased and acquired and sold and given by the owner or owners thereof, or by his, her, or their agent or employee, with intent to use or employ the same for the purpose of aiding, abetting, and promoting the said insurrection and resistance to the laws, after the approval of said act, and after the public proclamations above mentioned, and after the 16th day of August, 1861, by being used in the transportation of troops of the so-called Confederate States in armed rebellion against the United States, and in transporting munitions of war and supplies for the said troops.

4. That the owner or owners of the said property did knowingly consent to the use or employment of it for the purpose of aiding or abetting or promoting said insurrection and resistance to the laws, or of aiding, abetting, or promoting persons engaged therein, after the approval of said act, and after the proclamations above mentioned, and after the 16th day of August, 1861, by permitting the use as aforesaid.

5. That the owner or owners of said property, his, her, or their agent or employee, did suffer said property to be used or employed in aiding, abetting, and promoting the insurrection proclaimed by the President as aforesaid, and in aiding, abetting, or promoting a person or persons engaged in said insurrection, after the approval of act above mentioned, and after the proclamation of the President, duly made public on the 16th day of August, 1861, by being used with the consent of the owners as aforesaid.

V. That by reason of the premises, the property herein described became and was forfeited to the United States, and ought to be confiscated and condemned to the use of the said United States.

Wherefore the said attorney, in the name and behalf of the United States of America, prays that process of monition may issue against the said property and the owner or owners thereof, and against all persons interested or claiming an interest therein, warning them at some early day, to be named therein, to appear and answer this
3 libel of information; and that an order of publication may be made in the usual form; and that all due proceedings being had, this honorable court may be pleased to decree for the condemnation and forfeiture of the said property to the use and ownership of the said United States, and of Charles Black, sr., informant. And he prays for such further relief as the court is competent to give in the premises.

(Signed) JNO. K. GOODLOE,
United States Attorney for the Eastern District of Louisiana.

Filed Jan'y 30, 1866.

4 United States circuit court for the sixth judicial circuit and eastern district of Louisiana.

UNITED STATES
vs.
THE STEAMER J. M. SHARP, her tackle, apparel, &c. } No. 3,750.

Whereas the steamer J. M. Sharp, her tackle, apparel, furniture, machinery, &c., described in the libel filed by the district attorney, and now of record in this court, and all the right, title, and interest therein, has been seized by the marshal of the United States for the eastern district of Louisiana, by virtue of an act of Congress, approved on the sixth day of August, in the year of our Lord one thousand eight hundred and sixty-one, entitled "An act to confiscate property used for insurrectionary purposes;" and whereas the United States attorney for the eastern district of Louisiana did, on this 30th day of January, A. D. 1866, file a libel of information in this court praying the condemnation of said property under the act aforesaid, and that process of monition issue against the owner and owners of said property and all persons interested or claiming an interest therein, warning them at some early day to appear and answer said information:

It is therefore, on this 30th January, in the year of our Lord eighteen hundred and sixty-six, ordered that notice be given to the owner and owners of said property and real estate, and all persons interested or claiming an interest therein, to appear and answer this information on the 19th day of February, 1866, and show cause, if any they have, why said property and the right, title, and interest therein should not be condemned and sold according to law; and that notice be given by posting a copy of this order upon the front door of the court house of the district, and by publication in the Picaune newspaper twice a week previous to said 19th day of January, A. D. 1866, the first publication to be on or before the 5 February, 1866.

New Orleans, Jan'y 30, 1866.

(Signed) E. H. DURELL, *Judge.*

5 *Warrant.*

The President of the United States of America to the marshal of the eastern district of Louisiana, or to his lawful deputy, greeting:

You are hereby commanded forthwith to seize and into your possession take the steamer J. M. Sharp, her tackle, apparel, furniture, machinery, &c., described in the libel filed by the district attorney, now of record in this court, and now libelled by the United States for the causes set forth in the libel pending in the circuit court of the United States for the sixth judicial circuit and eastern district of Louisiana; that you do cite and admonish the owner or owners and all and every other person or persons having or pretending to have any right, title, or interest in or to the same, to be and appear before a circuit court of the United States for the district aforesaid, to be holden at the city of New Orleans, on or before the third Monday from the service hereof, to show cause, if any they have or can, why the said property should not be condemned and sold agreeably to the prayer of the libellant; and how you have executed this warrant, that you make return according to law.

Witness the honorable Salmon P. Chase, Chief Justice of the Supreme Court of the United States, this 30th day of January, A. D. 1866. and 90th year of the independence of the United States.

(Signed) CHS. CLAIBORNE, *Clerk.* [SEAL.]
By F. B. VINOT, *Deputy Clerk.*

6 *Marshal's return.*

Received January 31st, 1866, and having on the 29th day of same month and year, under the authority of a previous order from the U. S. district attorney, seized and taken into my possession the steamboat J. M. Sharp, her tackle, apparel, and furniture, I served a copy of this warrant, the libel, and the order of the judge, on Sidney Relf, a liquidating commissioner of the Bayou Sara Mail Company, the claimants of said steamboat, and published monition in the Picayune, a daily paper printed and published in this city, on the 1st, 6th, 10th, and 17th of February, 1866.

New Orleans, February 19, 1866.

(Signed) J. J. PREIS,
D'y U. S. Marshal.

7 *United States marshal's monition.*

In the United States circuit court for the sixth circuit and eastern district of Louisiana.

UNITED STATES
vs.
STEAMER J. M. SHARP, her tackle, apparel, furniture, &c. } No. 3,750.

In obedience to an admiralty warrant to me directed in the above-entitled suit, I have seized and taken into my possession the steam-

boat J. M. Sharp, her tackle, apparel, furniture, machinery, engines, boats, &c., now libelled by the United States of America for the causes set forth in the libel now pending in the circuit court of the United States; and I do hereby cite and admonish the owner or owners thereof, and all and every person or persons having, or pretending to have, any right, title, or interest in or to the same, to be and appear at a circuit court of the United States for the district aforesaid, to be holden at the city of New Orleans on or before
8 the third Monday from the date hereof, to show cause, if any they have or can, why the said steamboat, &c., should not be condemned and be sold agreeably to the prayer of libellants, and the proceeds thereof be distributed according to law.

United States marshal's office, New Orleans, 31st day of January, 1866.

(Signed) CUTHBERT BULLITT,
United States Marshal.

Rule to bond and order, rule made absolute.—From minutes Jan'y 30, 1866.

Circuit court of the United States for the sixth circuit, and eastern district of Louisiana, November term, 1865.

NEW ORLEANS, *Tuesday, January* 30, 1866.

Court met pursuant to adjournment. Present: Hon. Edw. H. Durell, dist. judge.

UNITED STATES
versus
THE STEAMER J. M. SHARP, her tackle, apparel, &c. } No. 3,750.

9 On motion of P. H. Morgan. esq., proctor for the New Orleans Bayou Sara Mail Company, owners of the property libelled in this case:

Ordered that the district att'y show cause why they should not be permitted to bond the same. And service being accepted and the rule submitted:

Ordered that the same be made absolute; that said steamer be appraised by Heartt and Swain, and delivered to the claimants upon furnishing bond in a sum exceeding by one-half the appraised value thereof, with good and solvent security conditioned as the law directs.

Notice to appraisers.—Issued January 30*th*, 1866.

United States circuit court, eastern district of Louisiana.—No. 3,750.

To Heartt and Swain:

Take notice that you have been appointed this day ap-
10 praiser for the purpose of ascertaining the value of the property libelled in this case, and you are to file the report of your appraisement within the shortest possible delay.

By order of court.

New Orleans, Jan'y 30, 1866.

(Signed) F. B. VINOT, *Deputy Clerk.* [SEAL.]

Marshal's return.

Received January 30, 1866, and on the same day, month, and year served a copy of the within notice on Heartt and Swain, by leaving it at their office in the hands of H. S. Heartt personally.

January 30th, 1866.

(Signed) J. J. PREIS, *Dy. U. S. Marshal.*

11 *Appraisers' report.—Filed January* 31, 1866.

Prize appraisers' report.

UNITED STATES
versus
THE STEAMER J. M. SHARP, apparel, furniture, machinery, &c.

To the honorable district court for the eastern district of Louisiana:

We, the undersigned appraisers to this honorable court, duly appointed and sworn, have the honor to report:

That on the 31st day of Jan'y, 1866, we proceeded on board of the steamer J. M. Sharp, for the purpose of ascertaining her value; and, after a careful and thorough examination, find that she is about five to six years old, built in Jefferson, Indiana. Her length is feet , inches; breath of beam , feet inches; depth of hold , feet , inches; or tons burden.

This steamer draws 2½ feet water light, and now draws loaded five feet, was put up at auction, and $5,500 was bid on her. Afterwards, in June last, $5,000 was spent on her. She is a three-boiler boat, with one doctor, two engines in fine order; on light or low wa-

12 ter, is a profitable boat, when large crops of cotton are made.

We therefore appraise her at ten thousand dollars.

(Signed) H. G. HEARTT,
(Signed) RICHARD SWAIN,
U. S. Appraisers, New Orleans.

Appraiser's bill.—Filed January 31*st*, 1866.—No. 3,750.

UNITED STATES PRIZE COMMISSIONERS' OFFICE,
Appraiser's Department, New Orleans, January 31*st*, 1866.

In the matter of the steamer J. M. Sharp, to appraisers, Dr.

For examination and appraisement of st'r Sharp..... $100 00

Release bond.—Filed Jan'y 31, 1866.

13 UNITED STATES OF AMERICA,
Eastern District of Louisiana:

Know all men by these presents that we, the New Orleans and Bayou Sara Mail Company, through J. Sidney Relf, liquidating com-

missioner, claimants and owners of the steamer J. M. Sharp, her tackle, apparel, &c., as principal, and J. Morgan Hall, as surety, are held and firmly bound unto the United States of America, libellants, in the sum of fifteen thousand dollars, lawful money of the United States of America, for the payment whereof to the said United States of America, or assigns, we jointly and severally bind ourselves, our heirs, executors, and administrators, firmly by these presents.

Witness our respective names and seals, hereunto affixed by us at New Orleans, this 31st day of January, one thousand eight hundred and sixty-six.

Whereas an admiralty warrant was lately issued out of the honorable the circuit court of the United States of America for the eastern district of Louisiana, at the suit of United States *vs.* the steamer J. M. Sharp, &c., her tackle, apparel, and furniture, and numbered 3,750 on the docket of the said court, commanding the marshal to seize and take into his possession the said steamer J. M. Sharp, &c., which has been seized accordingly, but has been released from said seizure and delivered to the claimants and owners thereof by reason of the signing, sealing, and delivery of these presents, said claimants and owners having obtained leave of court to bond said property, and filed a claim thereto, which is now of record in the clerk's office of this court:

Now, the condition of the above obligation is such, that if the said claimant and sureties abide by all the orders, interlocutory or final, of the court, and pay the said libellants the amount awarded by the final decree, rendered in the court to which the process is returnable or in any appellate court, then the foregoing obligation is to be void; but otherwise shall remain in full force and virtue.

(Signed) J. SIDNEY RELF, [L. S.]
Liquidating Commissioner.

(Signed) J. MORGAN HALL. [L. S.]

Signed, sealed, and delivered in the presence of—
(Signed) J. B. VINOT.

14 J. Morgan Hall, surety on the within bond, being duly sworn, says that he resides in the city of New Orleans, and is worth the sum of fifteen thousand dollars over and above all his just debts and liabilities.

(Signed) J. MORGAN HALL.

Sworn to and subscribed before me, this 31st day of Jan'y, 1866.
(Signed) CH'S CLAIBORNE, [SEAL.]
U. S. Commis'r.

15 *Writ of release.—Issued January 31st, 1866.*

UNITED STATES CIRCUIT COURT,
Eastern District of Louisiana, ss:

CLERK'S OFFICE, *New Orleans, Jan.* 31, 1866.

THE UNITED STATES
vs.
THE STEAMER J. M. SHARP, &c. } No. 3,750.

The President of the United States of America to the marshal of the eastern district of Louisiana, or his lawful deputy, greeting:

Whereas the N. O. and Bayou Sara Mail Company, owners and claimants, hath obtained by order of court leave to bond the said steamer J. M. Sharp, and which order is now of record in this office, you are hereby authorized to release the said steamer J. M. Sharp, &c., from seizure, and her to restore to the possession and custody of said claimants, they having given bond conditioned as required by the order of court, and otherwise complying with the rules of the court, &c., and make return hereon of your doings in the premises.

Witness the Hon. Salmon P. Chase, Chief Justice of the Supreme Court of the United States, at New Orleans, this 31st day of January, A. D. the 1886, and the year of the independence of the United States.

(Signed) F. B. VINOT, [SEAL.]
D'y Clerk.

16 *Marshal's return.*

Received Jan'y 31st, 1866, and in obedience to this writ on the same day, month and year, released from custody the steamboat J. M. Sharp, her tackle, apparel, and furniture, unto the claimants named herein, and took from Captain Jno. Lanone, commanding said boat, a receipt for said boat, &c., which receipt is on file in the U. S. marshal's office.

New Orleans, Jan'y 31st, 1866.

(Signed) J. J. PREIS,
D'y U. S. Marshal.

17 *Intervention and claim.—Filed February 19th, 1866.*

UNITED STATES
vs.
STEAMER J. M. SHARP. } No. 3,750.

Circuit court of the United States for the sixth circuit and eastern district of Louisiana.

Into the said court now comes J. G. Landry, J. S. Relf, and J. O. La None, and intervening in their own behalf, as well as in behalf of the New Orleans and Bayou Sara Mail Company, a company incor-

porated in conformity with the laws of Louisiana, and domiciled in the city of New Orleans, in the property herein seized by the marshal of this hon. court, and for answer to the libel of information herein filed by the attorney of the United States for the eastern district of Louisiana respectfully alleges:

1. That the allegations set forth in the 1st, 2d, and 3d articles of said libel are, as this respondent believes, true and correct. But that the allegations set forth besides in all the other articles of said libel are untrue and incorrect.

2. That it is untrue that the property herein libelled was used and employed knowingly by the owner or owners thereof, in aiding, abetting, or promoting the insurrection and resistance to the laws within the meaning of the act of Congress referred to in said libel, after the appeal of said act, and after the public proclamations of the President of the United States therein referred to, by being used in the transportation of troops of the "Confederate States" in armed rebellion against the government of the United States, and in transporting munitions of war, supplies, &c., for the said troops.

3. That it is untrue that the property described in said libel was used knowingly by the owner or owners thereof in aiding and abetting persons engaged in the insurrection and resistance to the laws within the meaning of the act of Congress and after the proclamations of the President referred to in said libel, by being used in the transportation of troops of the so-called Confederate States in armed rebellion against the government of the United States, and in transporting munitions of war and supplies for the said troops.

4. That it is untrue that the owners of said property did knowingly consent to the use or employment of it, for the purpose of aiding or abetting or promoting said insurrection and resistance to the laws, or of aiding, abetting, or promoting said insurrection and resistance to the laws, or of aiding, abetting, or promoting persons engaged therein, after the approval of the act, and after the proclamation mentioned in said libel, after the 16th August, 1861, by permitting the use thereof.

5. That is not true that the owner or owners of said property, his, her, or their agent or employee, did suffer said property to be used or employed in aiding, abetting, and promoting the insurrection referred to in said libel, and in aiding, abetting, or promoting a person or persons engaged in the insurrection therein referred to, after the approval of the act therein referred to, and the proclamation of the President, by being used with the consent of the owners thereof.

6. They deny that the property described in said libel became and was forfeited to the United States, or that it ought to be confiscated and condemned to the use of the said United States.

7. Further answering, they say that the above-described and libelled property is the property of the New Orleans and Bayou Sara Company as aforesaid, which said company is now in liquidation, and represented by these appearers. That they and all the parties in-

terested in said property are loyal citizens of the United States; that they have all taken the oaths of amnesty prescribed by the Presidents of the United States, in their various proclamations of the 8th December, 1863, and 19th May, 1865, and before said property was libelled, which amnesty, they plead as well as for themselves
21 as for the parties interested herein, as a peremptory bar to any further proceedings herein.

8. And further they appear and pray that said libel be dismissed, and that the property herein seized be restored to them as the owners and representing the owners thereof, and for all such other decree and order as may be proper in the premises.

(Signed) P. H. MORGAN, *Proctor.*

J. S. Relf, being duly sworn, says that he is one of the intervenors herein, and that J. G. Landry and J. C. Lanone are temporarily absent from the city of New Orleans, and that all the allegations of the foregoing petition and claim in intervention are true.

(Signed) J. S. RELF,
Liquidating Commissioner.

Sworn to and subscribed before me, this 19th February, 1866.

(Signed) F. B. VINOT, *Dy. Clerk.*

22 *Bond for costs.—Filed Feb'y 19th,* 1866.

UNITED STATES OF AMERICA,
Eastern District of Louisiana, to wit, ss:

Personally appearing before me the undersigned, United States commissioner for the eastern district of Louisiana aforesaid, the N. O. & Bayou Sara Mail Company, through J. S. Relf, liquidating commissioner, as principal, and said J. S. Relf, in his own name, as surety, do hereby acknowledge themselves jointly and severally to be indebted unto the United States in the full sum of two hundred and fifty dollars, lawful money of the United States, to be levied of their goods, chattels, lands, and tenements, the use of the said United States, and for the payment whereof they jointly and severally bind themselves, their heirs, executors, and administrators, firmly by these presents.

Whereas in the matter of the United States *vs.* The steamer J. M. Sharp, &c., No. 3,750 of the docket of the circuit court of the United States for the eastern district of Louisiana, a libel of information has been filed on behalf of the United States:

This obligation to be null and void on condition that the said N. O. & Bayou Sara Mail Company shall abide by the final decree rendered in the cause, and pay all such costs, expenses, and damages as shall be awarded by the court upon the final decree, whether it is rendered in the original or appellate court; otherwise this obligation to remain in full force and virtue.

(Signed) J. S. RELF, [L. S.]
Liquidating Commissioner of the N. O. Bayou Sara Company.
(Signed) J. S. RELF. [L. S.]

Signed and sealed at the city of New Orleans, this 19 day of Feb'y, 1866, in presence of—

(Signed) CHS. CLAIBORNE, [SEAL.]
U. S. Commissioner in and for the Eastern District of Louisiana.

23 *Notice to take testimony.—Issued March 3d, 1866.*

United States circuit court, eastern district of Louisiana.

UNITED STATES
vs.
ST'R J. M. SHARP, her tackle, apparel, &c. } No. 3,750.

To P. H. Morgan, esqr.:

You are hereby notified that testimony will be taken in the above-entitled cause on Friday, the 9th day of March, 1866, at the clerk's office of this court, at 5½ o'clock p. m., on behalf of the libellant.

(Signed) J. B. VINOT, *D'y Clerk.* [L. S.]
New Orleans, March 3d, 1866.

Marshal's return.

Received March 6th, 1866, and on the same day, month, and year served a copy of the within notice on P. H. Morgan, esq.,
24 personally, at his office, 184 Gravier street, in this city.
New Orleans, March 7th, 1866.
(Signed) J. J. PREIS, *Deputy U. S. Marshal.*

Testimony for libellants.—Filed March 9th, 1866, and offered in evidence May 29th, 1866, by libellants.

UNITED STATES
vs.
STEAMER J. M. SHARP. } No. 3,750.

Testimony taken March 9, 1866, before United States commissioner. Present: District attorney.

Geo. D. Hite, sworn for the United States, says:

I know nothing about the Sharp. She was in the cis-Mississippi department, I think, and I was in the trans-Mississippi department.
(Signed) GEO. D. HITE.

25 Sworn to and subscribed before me, this 9th March, 1866.
(Signed) CHAS. CLAIBORNE,
U. S. Commissioner.

Notice to take testimony.—Issued April 23d, 1866.

United States circuit court, eastern district of Louisiana.

UNITED STATES
vs.
STEAMER J. M. SHARP. } No. 3,750.

To P. H. Morgan, esqr.:

You are hereby notified that testimony will be taken in the above-entitled cause on Wednesday, the 25th day of April, 1866, at the clerk's office of this court, at 5½ o'clock p. m., on behalf of the libellant.

(Signed) F. B. VINOT, *D'y Clerk.*

New Orleans, April 23d, 1866.

Marshal's return.

26 Received April 23d, 1866, and on the 24th day of same month and year served a copy of the within notice on P. H. Morgan, esq'r., personally, at his office, No. 184 Gravier street, in this city.

New Orleans, April 24, 1866.

(Signed) J. J. PREIS,
Deputy U. S. Marshal.

Testimony for libellants.—Filed April 25th, 1866.

UNITED STATES
vs.
STEAMER SHARP. } No. 3,750.

Testimony on behalf of libellant, taken before C. Claiborne, U. S. commissioner, April 25, 1866, in presence of counsel of both parties.

Jacob Burghes, sworn for libellant, says:

I reside in N. Orleans. My occupation is that of 1st class river engineer. I know the steamboat J. M. Sharp. I have known
27 her for about 7 years, I think. I saw her up, in 1863, in Yazoo river, at Haynes bluff, on the Yazoo river. She was carrying down corn, and part of the time she was working at rafts.

She brought the corn from up the Yazoo river to Haynes bluff. Haynes bluff was a confederate military post at that time. General Hebert, a confederate general, was commander at Haynes bluff. I can't say to whom the corn belonged to; it was put off at Haynes bluff, and part of it was used by the confederate soldiers, and good deal used as fuel. I burned a good deal myself. The raft spoken of above was the one built across the Yazoo river. The Sharp was taken there by the confederate government to repair the raft. I don't know how long she was employed there. I think she was there about 6 weeks. The order was given to evacuate the place. The Sharp

was taken up the Sunflower river and sunk, and the rest of the boats were burnt. I don't know for what purpose she was taken there and burnt. I suppose it was to save her. The Q. M. having ordered
28 all boats to be burned. I have seen troops on board of her. The boat was commanded at the time I speak of by Mr. Henry Hurt, afterwards by Captain Dye. I don't know who was the owner of the Sharp. I don't recollect if she carried a flag.

Cross-ex.:

I don't know if all I saw there was forced upon the boat. The army had possession of the country on the Yazoo river. I don't know whether they forced the boat or not to enter the service, but I know (this ref'ce app'd) they forced me. I don't know whether the owners consented to such use or not, and I don't think any of the owners were there, unless Capt. Dye was the owner. Had the owners been there they could not have prevented the boat being used. I reside in N. O., 178 Liberty street.

(Signed) J. BURGHES.

Sworn to and subscribed before me, this 25th April, 1866.

(Signed) CHS. CLAIBORNE,
U. S. Commissioner.

29 Alexander White, sworn for libellants, says:

I reside in New Orleans. My business is steamboating. I know the steamboat J. M. Sharp. I have known her since the time she first came out. I think it was in 1859. I know the present owner of the boat; Captain La None is the present owner. I don't know it of my own knowledge. I only heard it. In October, 1865, Captain La None was her reputed owner. She was running in Ouachita river. She was running on the Ouachita river somewhere in August, 1865. From January, 1863 to the time we retired within the lines at Vicksburg, she was running on the Yazoo and Sunflower rivers. She ran up and down the Yazoo river and its tributaries. She was in the government employ. I supposed she was seized by the confederate government like all the other boats. I seized 5 or 6 boats myself, by order of confederate officers. I saw her transporting conf. supplies and stores like all the other boats. I have seen con-
30 federate troops on board. I have been with soldiers on board myself, to seize another boat. I don't remember having ever seen a flag on board. Capt. Dye and Hurt commanded her at the time. I can't say what became of the Sharp after the confederate troops had retired inside Vicksburg. I don't know where she was.

Cross-ex.:

I don't know who the owner or the reputed owners of the Sharp were at the time she was running in the Yazoo river. I did not see any one there who claimed to be the owner. Had the owners been there they could not have prevented the seizure. I don't know of

Notice to take testimony.—Issued April 23d, 1866.

United States circuit court, eastern district of Louisiana.

UNITED STATES
vs.
STEAMER J. M. SHARP. } No. 3,750.

To P. H. Morgan, esqr.:

You are hereby notified that testimony will be taken in the above-entitled cause on Wednesday, the 25th day of April, 1866, at the clerk's office of this court, at 5½ o'clock p. m., on behalf of the libellant.

(Signed) F. B. VINOT, *D'y Clerk.*

New Orleans, April 23d, 1866.

Marshal's return.

26 Received April 23d, 1866, and on the 24th day of same month and year served a copy of the within notice on P. H. Morgan, esq'r., personally, at his office, No. 184 Gravier street, in this city.

New Orleans, April 24, 1866.

(Signed) J. J. PREIS,
Deputy U. S. Marshal.

Testimony for libellants.—Filed April 25th, 1866.

UNITED STATES
vs.
STEAMER SHARP. } No. 3,750.

Testimony on behalf of libellant, taken before C. Claiborne, U. S. commissioner, April 25, 1866, in presence of counsel of both parties.

Jacob Burghes, sworn for libellant, says:

I reside in N. Orleans. My occupation is that of 1st class river engineer. I know the steamboat J. M. Sharp. I have known
27 her for about 7 years, I think. I saw her up, in 1863, in Yazoo river, at Haynes bluff, on the Yazoo river. She was carrying down corn, and part of the time she was working at rafts.

She brought the corn from up the Yazoo river to Haynes bluff. Haynes bluff was a confederate military post at that time. General Hebert, a confederate general, was commander at Haynes bluff. I can't say to whom the corn belonged to; it was put off at Haynes bluff, and part of it was used by the confederate soldiers, and good deal used as fuel. I burned a good deal myself. The raft spoken of above was the one built across the Yazoo river. The Sharp was taken there by the confederate government to repair the raft. I don't know how long she was employed there. I think she was there about 6 weeks. The order was given to evacuate the place. The Sharp

was taken up the Sunflower river and sunk, and the rest of the boats were burnt. I don't know for what purpose she was taken there and burnt. I suppose it was to save her. The Q. M. having ordered
28 all boats to be burned. I have seen troops on board of her. The boat was commanded at the time I speak of by Mr. Henry Hurt, afterwards by Captain Dye. I don't know who was the owner of the Sharp. I don't recollect if she carried a flag.

Cross-ex.:

I don't know if all I saw there was forced upon the boat. The army had possession of the country on the Yazoo river. I don't know whether they forced the boat or not to enter the service, but I know (this ref'ce app'd) they forced me. I don't know whether the owners consented to such use or not, and I don't think any of the owners were there, unless Capt. Dye was the owner. Had the owners been there they could not have prevented the boat being used. I reside in N. O., 178 Liberty street.

(Signed) J. BURGHES.

Sworn to and subscribed before me, this 25th April, 1866.

(Signed) CHS. CLAIBORNE,
U. S. Commissioner.

29 Alexander White, sworn for libellants, says:

I reside in New Orleans. My business is steamboating. I know the steamboat J. M. Sharp. I have known her since the time she first came out. I think it was in 1859. I know the present owner of the boat; Captain La None is the present owner. I don't know it of my own knowledge. I only heard it. In October, 1865, Captain La None was her reputed owner. She was running in Ouachita river. She was running on the Ouachita river somewhere in August, 1865. From January, 1863 to the time we retired within the lines at Vicksburg, she was running on the Yazoo and Sunflower rivers. She ran up and down the Yazoo river and its tributaries. She was in the government employ. I supposed she was seized by the confederate government like all the other boats. I seized 5 or 6 boats myself, by order of confederate officers. I saw her transporting conf. supplies and stores like all the other boats. I have seen con-
30 federate troops on board. I have been with soldiers on board myself, to seize another boat. I don't remember having ever seen a flag on board. Capt. Dye and Hurt commanded her at the time. I can't say what became of the Sharp after the confederate troops had retired inside Vicksburg. I don't know where she was.

Cross-ex.:

I don't know who the owner or the reputed owners of the Sharp were at the time she was running in the Yazoo river. I did not see any one there who claimed to be the owner. Had the owners been there they could not have prevented the seizure. I don't know of

my own knowledge if Capt. Dye was in the confederate service. I don't think he was.

(Signed) ALEX. WHITE.

Sworn to and subscribed before me, this 25th April, 1866.

(Signed) CH'S CLAIBORNE,
U. S. Commissioner.

31 *Notice to take testimony.—Issued May 1st, 1866.*

United States circuit court, eastern district of Louisiana.

UNITED STATES
vs.
ST'R J. M. SHARP. } No. 3,750.

To P. H. Morgan, esq.:

You are hereby notified that testimony will be taken in the above-entitled cause on Thursday, the 3d day of May, 1866, at the clerk's office of this court, at 5½ p. m., on behalf of libellant.

(Signed) F. B. VINOT, [SEAL.]
D'y Clerk.

New Orleans, May 1st, 1866.

Marshal's return.

Received May 1st, 1866, and same day, month, and year served a copy of the within notice on P. H. Morgan, esq., the attorney named herein personally, at his office, No. 184 Gravier street, in this
32 city.

New Orleans, May 3d, 1866.

(Signed) M. EGAN,
D'y U. S. Marshal.

Testimony for libellants.—Filed May 3d, 1866, and offered in evidence by libellants May 29th, 1866.

UNITED STATES
vs.
STEAMER J. M. SHARP. }

Testimony for libellants. Present: district attorney.

David E. Duncan, sworn for United States, says:

I resided in this city before the war, some 15 years. I know the steamer J. M. Sharp. Saw her during the war. Saw her in the State of Mississippi, in Yazoo river several times. Saw her in the spring of 1863, and other times in the Yazoo river up to the surrender. Saw her also after the surrender. She run sometimes in the Tallahatchie,
33 Yazoo river during the time I have seen her up to the surrender. She was in the employ of the confederate government who had impressed her. She was used principally in carrying supplies, also

carried troops. There was a man with the name of Dye on her a portion of time, but she had all the time a confederate officer on her. A man with the name of Hurd was also on her. I have seen her at Angel's bluff, transporting confederate matters. Angel's bluff was a military post at the time. Military supplies were received there, I mean confederate supplies, as that port was under confederate control. Don't know who owned the boat. Understood she did belong to the Bayou Sara Mail Company, but don't know the fact.

(Signed) DAVID D. DUNCAN.

Sworn to and subscribed before me, this 3d May, 1866.

(Signed) CHS. CLAIBORNE,
U. S. Commissioner.

34 *Notice to take testimony.—Issued May 4th*, 1866.

United States circuit court, eastern district of Louisiana.

UNITED STATES
vs.
ST'R J. M. SHARP. } No. 3,750.

To P. H. Morgan, esq.:

You are hereby notified that testimony will be taken in the above-entitled cause on Saturday, the 5th day of May, 1866, at the clerk's office of this court, at 12 o'clock m., on behalf of libellant.

(Signed) F. B. VINOT, *D'y Clerk.*

New Orleans, May 4th, 1866.

Marshal's return.

Received May 4th, 1866, and same day, month, and year served a copy of the within notice on P. H. Morgan, esq'r, the attorney
35 named herein, personally, at the office of the 6th district court in this city.

New Orleans, May 4th, 1866.

(Signed) M. EGAN,
Deputy U. S. Marshal.

Hearing and submission of cause.—From the minutes of May 18th, 1866.

UNITED STATES
vs.
THE STEAMER J. M. SHARP. } No. 3,750.

This cause came up for trial, district attorney for the United States, P. H. Morgan, esq., proctor for defendants, not present.

When, after hearing the pleadings and evidence, the court took time to advise.

Order reopening cause for one week.—From the minutes of May 19th, 1866.

UNITED STATES
vs. } No. 3,750.
ST'R J. M. SHARP.

36 On motion of P. H. Morgan, esq., att'y for the defendant, and for reasons assigned in open court—

Ordered that this cause be reopened for one week from this day.

Testimony for claimants and document A, filed May 24, 1866.—Offered by defendants May 29, 1866.

UNITED STATES
vs. } No. 3,750.
ST'R J. M. SHARP.

Felix Braud, sworn for claimant, says:

In the spring 1862 I was clerk on the Sharp. She was running from the city to Old river. This boat belonged to the Bayou Sara Mail Co. I was in the Sharp when the city was taken by the United States forces. The Sharp was in port, and had come in for about one hour when the news arrived that the fleet had passed the forts.

We had been in port for one hour or so when orders came up
37 to unload the Sharp immediately.

As soon as the boat was unladen and cargo off, at about 12 m., Captain E. Humphreys came aboard and took charge of her and ordered us to Baton Rouge, where we took the powder and war materials that were in the arsenal at Baton Rouge and went up to Vicksburg, where Captain Humphreys transferred these materials to the confederate authorities there, and we proceeded up to Yazoo river.

When we got up to Greenwood, at the beginning of Yellabusha river, the engineer who was on board wanted to leave her, but by order of Captain Humphreys, who was in command of the boat, he was placed under arrest and conducted to another boat by a guard, up to Granade, and there court-martialed.

I was present at the engineer's arrest. I, myself, did not desire to go up the river, but Captain Dye, who had formerly com-
38 mand of the boat, stated he had orders from Captain Humphreys to shoot any man that refused to go.

(District attorney objects.)

Captain Humphreys was in charge of the powder and war materials for the confederates.

There was no power at all for any one on board to resist the command of Captain Humphreys.

The boat was taken possession of by this Captain Humphreys.

None of the members of the Bayou Sara Mail Co. had anything to do with the going away of the boat that I am aware of. I left the boat at Grenada, about one week after this, where Captain Humphreys gave me a transportation ticket to leave.

During the whole time that the Sharp was taken away from the post of N. O., up to the time I left her, she was entirely under the

control of the confederate Captain Humphreys, and I so considered myself. (Objected to.)

Cross-ex:

39 Captain Dye, the commander of the boat, was on board at the time she was taken away by Captain Humphreys; he remained on her to Vicksburg. Captain Dye discharged the duties of captain under the superior directions of Captain Humphreys.

Captain Dye commanded the Sharp previous to the seizure.

None of the owners of the boat, neither Captain La None, were on board when she was taken away.

The Sharp did not carry any flag. I don't know what she did after I left.

Re-ex.:

Captain Humphreys commanded the Sharp when she went away from New Orleans.

(Signed) FELIX BRAUD.

Sworn to and subscribed before me, this 24th May, 1866.

(Signed) CH'S CLAIBORNE,
U. S. Com'ner.

E. A. Clarke, sworn for claimant, says:

40 In the spring 1862 I was in the employ of the Bayou Sara Mail line, as clerk. Mr. Braud was on board at the same time with me in the Sharp.

The Sharp went away from here the moment the news arrived that the fleet had passed the forts. She was laying at the landing when the news arrived of the passage of the forts by the fleet. Upon the news arriving we had orders to unload the boat in a hurry, as the government had taken possession of her, and that we had to leave immediately. This was between 10 and 12 a. m. We waited for a government official to come on board. An officer whose name I learned to be Humphreys came aboard, and we proceeded direct to Baton Rouge, where we took on board confederate government property; from thence went to Vicksburg, the boat being all the time under the charge and control of this Captain Humphreys. At Vicksburg we discharged a portion of the cargo. From there we
41 were ordered up the Yazoo river, and from there up the Yellowbusha to Grenada; there I received government transportation back to New Orleans. From the time the Sharp left New Orleans to the time I left, all orders on board were given by Captain Humphreys, who had the entire command, although Captain Dye, the former commander, was on board.

Cross-ex.:

Captain Dye discharged his usual duties of capt. on board during the time I have spoken of. Don't recollect whether there were any soldiers at Greenwood, but there were some at Grenada.

(Signed) E. A. CLARKE.

Sworn to and subscribed before me, this 24th May, 1866.
(Signed) CH'S CLAIBORNE,
U. S. Com'ner.

James McCloskey, sworn for claimant, says:

I was in the confederate service at the time the city was taken by the U. S. forces.

42 Question. If the confederate authorities, at the time of the capture of the city, had issued an order to take a str., could the owners of such steamer have prevented her being taken possession of?

(District attorney objects to the question.)

Answer. I think that if the confederate government had issued an order to take possession of a boat, the owners could not have resisted it in spite of any other authority.

(District attorney objects to the answer.)
(Signed) JAMES McCLOSKEY.

Emile Grass, sworn for claimant, says:

I know Mr. Eugene La None intimately. He was the President of the Bayou Sara Mail Company in the spring of 1862. At that time I was in the employ of the Bayou Sara Mail Company. I was under the control of the president of the company.

43 Captain La None gave me instructions in reference to getting back the steamer James Sharp. The Sharp at that time was at Grenada, Miss.

(District attorney objects to all the foregoing deposition.)

Question. What were Mr. La None's instructions in case you got the boats back?

(District attorney objects to the question.)

Answer. The orders were to go up then to Grenada, where the boat was, and take charge of her if I could get her away from the government; if there was any possibility of getting them back to take them back to New Orleans. I went up there and found the boat in the possession of the confederate government. I applied for their return; I applied to Colonel Chambers, commander of the post at Grenada at that time; he told me I could not get the boat, and refused to give her up. I made him give me a letter to that effect, and gave the letter to Captain La None.

Being showed document lettered A, says that it is the let-
44 ter given to him by Colonel Chambers. I recognize his signature.

(Counsel for claimant offers in evidence said letter marked A.)

(District attorney objects to all the foregoing answer and exhibit.)

I don't know where Colonel Chambers is now; the last time I saw him he was in Selma.

I know Captain Humphreys, and don't know what has become of him. The last I heard of him he was in Columbus, Georgia.

Mr. Eugene La None is dead.

Cross-examined:

Mr. La None died at Alexandria, on the Red river. I do not remember when he left here.

(Signed) E. F. GRASS.

Sworn to and subscribed before me, this 24th May, 1866.

(Signed) CH'S CLAIBORNE, *U. S. Comm'r.*

J. G. Landry, sworn for claimant, says:

I have charge of the papers belonging to the N. O. and
45 Bayou Sara Mail Line Company. The letter marked A was found among the papers of the succession of Captain La None.

(Signed) J. G. LANDRY.

Sworn to and subscribed before me, this 24th May, 1866.

(Signed) CHS. CLAIBORNE,
U. S. Commissioner.

Document A.—Filed May 24, 1866, *and offered in evidence by claimant May* 24, 1866.

(Signed) CH'S CLAIBORNE,
U. S. Commissioner.

HEADQUARTERS, GRENADA, *June 5th*, 1862.

On the 6th of May, 1862, the vessel J. M. Sharp, Captain Dye, reached this point, ladened with ordnance stores from Baton Rouge, in charge of Captain Humphreys, ord. dept. C. S. A. He informed me that he had seized the vessel for the use of the government, and brought her up the river without the consent of the owners, and that being the case she was there in the charge of the government, and that the government was responsible for her, with the under-
46 standing upon his departure from this place he turned the vessel over to me, with her furniture, &c., and her deck hands also—some deck hands belonging to the Arcadia, at Greenwood.

Since that time the vessel has been lying at the wharf here, unable to get down the river, and I have used her as a boarding house for those negroes that are in the employ of the government, and also some of my ordnance employees. For the length of time that the gov. keeps her the government will be responsible, and a fair rent will be paid for her as long as she is used as above stated. The vessel was occupied as a boarding house on the 10th May, 1862.

(Signed) N. R. CHAMBLISS,
Major and Com'd't Post, and Ord. Officer.

Order continuance.—From the minutes of May 26, 1866.

UNITED STATES
versus. } No. 3,750.
STEAMER J. M. SHARP.

47 By consent of parties this cause is continued till Tuesday next, 29th instant, at 11 a. m.

Note of evidence.—Filed May 29th, 1866.

UNITED STATES
vs.
THE STR. J. M. SHARP. } No. 3,750.

District attorney offered the evidence taken in behalf of the United States, and the defendants offered that taken in their behalf.

For testimony for libellants offered in evidence by the district attorney see pages 24 to 32 of this transcript.

The testimony offered by defendants will be found also at pages 36 to 44 of this transcript.

48 *Hearing and submission of cause.—From the minutes of May 29, 1866.*

UNITED STATES
vs.
STR. J. M. SHARP. } No. 3,750.

This cause came up for trial, district attorney for the United States, P. H. Morgan, esqr., for defendants.

And after hearing the pleadings, evidence, and counsel, the court took time to advise.

Final decree.—From judgment docket book 5.

Circuit court of the United States, sixth circuit and eastern district of Louisiana, April term, 1866.

NEW ORLEANS, *Saturday, June 30th*, 1866.

Court met pursuant to adjournment. Present: The honorable E. H. Durell, district judge.

49 THE UNITED STEAMER
versus
THE STEAMER J. M. SHARP. } No. 3,750.

For reasons orally assigned by the court in the case of the United States *vs.* the steamer Frolic, No. 3,595 of the docket, it is ordered adjudged, and decreed that the libel be dismissed, and that the property seized be restored to the claimants upon payment of all costs and for a fee of $300 for the district attorney.

Judgment rendered June 30th, 1866.

Judgment signed June 30th, 1866.

(Signed) E. H. DURELL, *Judge.*

Petition of appeal.—Filed July 6th, 1866.

United States circuit court.

UNITED STATES
vs.
STEAMER J. M. SHARP. } No. 3,750.

To the honorable the judges of the circuit court of the United
50 States for the sixth circuit and eastern district of Louisiana:

The petition of Jno. K. Goodloe, U. S. attorney, in the name and in the behalf of the United States of America, libellants herein, respectfully represents: That a final sentence and decree were entered on the 30th day of June, 1866, in the above-entitled cause in said circuit court for the eastern district of Louisiana, in and by which said final sentence and decree it was ordered, adjudged, and decreed that the libel herein be dismissed and the property seized be restored to the claimant; that said final sentence and decree is adverse to libellants, and to their manifest injury and prejudice; that the matter in controversy exceeds in value the sum of two thousand dollars; that your petitioner, in behalf as aforesaid, feels aggrieved by the rendition of said final decree and is advised that the same is erroneous and ought to be reversed.

Wherefore your petitioner, in behalf as aforesaid, doth
51 hereby appeal from said decree to the Supreme Court of the United States, returnable on the first Monday of December next, and prays this honorable court to grant him a suspensive appeal from said final decree, the same to operate as a supersedeas, and that said final sentence and decree may be reversed and such other decree thereupon made as to the Supreme Court shall deem just; and that a transcript of the record and proceedings in this case, duly authenticated, may be sent up to the said Supreme Court without delay.

(Signed) C. S. KELLOGG,
Ass't U. S. Attorney.

Order.

An appeal, to operate as a supersedeas, is allowed in this case, as prayed for, returnable to the Supreme Court of the United States the first Monday of December next, the applicants being by law dispensed from giving bond and security in judicial proceedings.

July 6th, 1866.

(Signed) E. H. DURELL, *Judge.*

52 UNITED STATES OF AMERICA,
Circuit Court of the United States,
Sixth Circuit and Eastern District of Louisiana:

CLERK'S OFFICE.

I, Charles Claiborne, clerk of the circuit court of the United States for the sixth circuit and eastern district of Louisiana, do hereby certify that the foregoing 51 pages contain and form a full, complete, true, and perfect transcript of the record and proceedings had, to-

gether with all the evidence adduced on the trial of the case of the United States *vs.* the steamer J. M. Sharp, her tackle, apparel, &c., No. 3,750 of the docket, so far as the same now remain of record or on file in said court.

Witness my hand and the seal of said court, at the city of New Orleans, this 18th day of August, A. D. 1866.

[SEAL.] CH'S CLAIBORNE, *Clerk.*

[5-ct. stamp, cancelled]

I, E. H. Durell, United States judge for the eastern district of Louisiana, do hereby certify that Charles Claiborne, whose name is signed to the above certificate as clerk of the circuit court of the United States for the sixth circuit and eastern district of Louisiana, was at the time of signing said certificate, and is now, the clerk of said court. That said certificate is in due form of law, and that full faith and credit are due to his official attestations as such clerk.

Given under my hand and seal, at the city of New Orleans, in said district, this 18th day of August, A. D. 1866.

E. H. DURELL, *Judge.*

[5-ct. stamp, cancelled.]

53 THE UNITED STATES OF AMERICA,
Eastern District of Louisiana:

The President of the United States to the New Orleans and Bayou Sara Mail Company, claimant and defendant, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at the city of Washington on the first Monday of December next, pursuant to a petition and order of appeal filed in the clerk's office of the circuit court of the United States for the 6th circuit and eastern district of Louisiana, to answer the appeal taken by the United States of America in this cause, and that you show cause, if any there be, why the judgment rendered against the said United States, as in said petition mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the honorable Salmon P. Chase, Chief Justice of the Supreme Court of the United States, this 7th day of July, in the year of our Lord one thousand eight hundred and sixty-six.

E. H. DURELL, *Judge.*

Marshal's return.

Received July 12th, 1866, and on the same day, month, and year served a copy of the within citation on the N. O. and Bayou Sara Mail Company, claimant and defendant named herein, by leaving the same in the hands of J. S. Relf, secretary of said company, at their office, No. 40 Canal street, in this city.

M. EGAN.
D'y U. S. Marshal.

New Orleans, July 12, 1866.